

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: Health Care Committee

BILL: SB 662

SPONSOR: Senator Clary

SUBJECT: Hospitals that Provide Charity Care

DATE: March 12, 2005

REVISED: 03/23/05

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Harkey	Wilson	HE	Fav/3 amendments
2.		CA	
3.		GO	
4.			
5.			
6.			

Please see last section for Summary of Amendments

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Technical amendments were recommended

☒

Amendments were recommended

☐

Significant amendments were recommended

I. Summary:

This bill creates a study commission to study hospitals that serve indigent populations and that sustained significant damage to their facilities during the 2004 hurricane season. The bill establishes the composition of the commission and provides for reimbursement for per diem and travel expenses of its members. The commission must identify all licensed hospitals serving indigent populations that are not able to comply with the Florida Building Code (FBC), that are located within 10 miles of the coastline, and that are located within a designated flood zone. The commission must make recommendations that will allow these facilities to find alternative methods of complying with the FBC including exemption from the certificate-of-need (CON) process for the relocation of licensed beds and the allowance of satellite beds for use in the future.

This bill creates one unnumbered section of law.

II. Present Situation:

The Hurricane Season of 2004

Every county in Florida was affected by a hurricane or tropical storm, or was under a declared state of emergency because of such a storm, in 2004. Counties in the South Central part of the

state suffered direct hits from three hurricanes, and two coastal Panhandle counties received extensive damage from a direct hit from a powerful hurricane accompanied by surge.

A survey by the Florida Hospital Association (FHA) showed 70 hospitals experienced damages from the four hurricanes—Charley (August 13, 2004); Frances (September 5, 2004); Ivan (September 16, 2004); and Jeanne (September 25, 2004). Of these 70 hospitals, 23 had damage from two storms and 11 facilities were damaged by three of the storms.

Hospitals reported significant damages to roofs, buildings, windows, equipment, and damages from flooding. Damages to hospital roofs totaled approximately \$15 million. Damages to the building, excluding the roof, totaled \$8.8 million. Water damage, caused by flooding and water intrusion, was estimated to cost \$5.2 million. Damages to equipment, windows and other facility damages totaled \$5.4 million. Other damages totaled \$4.9 million, including debris removal, damage to signage, landscaping, fencing, screens, canopies and awnings, and damage to compressors.

At the time of the FHA survey, many hospitals were still negotiating with their insurance companies on the damages and the amounts that would be covered. Thus, accurate damage estimates and insurance reimbursements were not available at the time of the survey. Based on data from about half of the participating hospitals, FHA estimated that approximately 45 percent of the repair cost would be covered by insurance.

The Certificate-of-Need Process

The CON regulatory process under ch. 408, F.S., requires that before specified health care services and facilities may be offered to the public they must be approved by the Agency for Health Care Administration (AHCA). Section 408.036, F.S., specifies which health care projects are subject to review. Subsection (1) of that section lists the projects that are subject to full comparative review in batching cycles by AHCA against specified criteria. Subsection (2) lists the kinds of projects that can undergo an expedited review. These include: research, education, and training programs; shared services contracts or projects; a transfer of a certificate of need; certain increases in nursing home beds; replacement of a health care facility when the proposed project site is located in the same district and within a 1-mile radius of the replaced facility; and certain conversions of hospital mental health services beds to acute care beds. Subsection (3) lists projects that may be exempt from full comparative review upon request. The construction of a satellite facility for a hospital is subject to CON review.

Hospitals Serving Indigent Populations

Rule 59C-1.030, F.A.C., sets forth the health care access criteria to be used in the review of a CON application. These criteria include the extent to which all residents of the district, and in particular low income persons, racial and ethnic minorities, women, handicapped persons, other underserved groups and the elderly, are likely to have access to the facility's services and the extent to which Medicare, Medicaid and medically indigent patients are served by the applicant. In any case where it is determined that an approved project does not satisfy the health care access criteria, AHCA may, if it approves the application, impose the condition that the applicant must

take affirmative steps to meet those criteria. While all hospitals are required to serve indigent patients, some serve far more than others because of their location.

The Florida Building Code

Part IV of Chapter 553, F.S., creates the Florida Building Commission and requires the commission to adopt by rule the FBC. Under Section 553.73, F.S., the FBC must contain or incorporate by reference all laws and rules which pertain to and govern the design, construction, erection, alteration, modification, repair, and demolition of public and private buildings, structures, and facilities and enforcement of such laws and rules, except as otherwise provided in that section.

Existing hospitals are required, in Chapter 34, Section 3401.3.1 of the FBC, to comply with the building code under which they were constructed. Only new facilities and renovations or additions to existing facilities must meet the current requirements of the FBC.

III. Effect of Proposed Changes:

Section 1. Creates a study commission to address critical issues relating to licensed hospitals that serve indigent populations and that sustained significant damage to their facilities during the 2004 hurricane season.

The commission must identify:

- All hospitals that are currently not able to comply with the provisions of the FBC as defined in ch. 553, F. S., and any associated administrative rules;
- Hospitals that are located within 10 miles of the coastline; and
- Hospitals that are located in a designated flood zone.

The study commission must make recommendations for allowing these hospitals to find alternative methods of renovating their existing facility in order to meet the requirements of the FBC, including an evaluation of whether any hospital located in a county that experienced, or may experience, significant hurricane damage should be exempt from the CON process for the purpose of relocating its currently licensed beds to a facility that is not located on the main hospital campus.

The bill requires the commission to review and determine whether hospitals located within 10 miles of the coastline or in a designated flood zone shall be allowed to have satellite beds for use in the future.

The commission must meet by September 1, 2005, and shall submit recommendations, including recommendations for statutory changes, to the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 1, 2006. Such recommendations shall also include an evaluation of whether grant funds should be made available to assist hospitals with the cost of reconstructing existing facilities.

The study commission must be staffed by the Department of Community Affairs and shall include:

- The Secretary of Community Affairs, or his or her designee;
- The Director of the Division of Emergency Management, or his or her designee;
- The Secretary of Health Care Administration, or his or her designee;
- The Secretary of Health, or his or her designee; and
- A director of county emergency management, selected by the Florida Association of Counties.

Members of the study commission will serve without remuneration, but are entitled to reimbursement in accordance with s. 112.061, F. S., for per diem and travel expenses incurred in performing their duties in accordance with this section.

Section 2. Provides that the bill will take effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The provisions of this bill have no impact on municipalities and the counties under the requirements of Article VII, Section 18 of the Florida Constitution.

B. Public Records/Open Meetings Issues:

The provisions of this bill have no impact on public records or open meetings issues under the requirements of Article I, s. 24(a) and (b) of the Florida Constitution.

C. Trust Funds Restrictions:

The provisions of this bill have no impact on the trust fund restrictions under the requirements of Article III, Subsection 19(f) of the Florida Constitution.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

No funding is appropriated in the bill for the study commission. Travel expenses and per diem for members appointed from the Department of Community Affairs, Agency for Health Care Administration, Division of Emergency Management, Department of Health

and a director of county emergency management would have to come from their expense budgets.

AHCA estimates travel costs for the Secretary of Health Care Administration or his designee to take part in the study commission at \$3,105. This would include \$621 per meeting (\$21 meal allowance, \$100 hotel, and \$500 for travel) times an estimated five meetings. AHCA will handle the additional cost within existing resources.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill requires the commission to recommend whether hospitals located within 10 miles of the coastline should be allowed to have satellite beds for use in the future. Use of such satellite beds as alternative hospital beds for acute care patients would require that the beds meet a standard that would involve substantial and costly construction. According to AHCA, such beds would be a costly and infrequently-used alternative if they remained vacant, or would be unavailable for relocation of acute care patients if they were not vacant.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

VIII. Summary of Amendments:

Barcode 610134 by Health Care:

Deletes requirements for the commission to recommend possible exemptions from CON review and to recommend whether hospitals located within 10 miles of the coastline should be allowed to have satellite beds, and instead requires the commission to review all alternatives to renovation and to review laws and agency regulations and recommend needed changes.

Barcode 944970 by Health Care:

Adds 4 hospital representatives to the study commission, 2 appointed by the Senate President, and 2 by the Speaker of the House of Representatives.

Barcode 225032 by Health Care:

Requires a director of county emergency management who will be a member of the study commission to be selected by the Florida Emergency Preparedness Association instead of by the Florida Association of Counties.

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